

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 9076 - SB 9013

October 28, 2021

SUMMARY OF ORIGINAL BILL: Establishes that during the existence of any pandemic, the Governor has exclusive jurisdiction to issue executive orders with respect to each county health department in the state. Prohibits the Commissioner of the Department of Health (DOH) and local health departments or boards to supersede, contradict, or refuse to comply with such executive orders.

Deletes the authorization for county health officers to order rules and regulations as necessary to protect the general health and safety of the county. Requires a county mayor to concur or not concur with the Commissioner's proposed appointee for a county health director position within ten days of the appointment. Clarifies that any medical enforcement actions taken by a county health officer require the direction of the Commissioner or county mayor. Clarifies that a county mayor, under advisement of a county board of health, has the power to issue orders to protect the general health and safety of residents, except during the transfer of quarantine power to the Commissioner under the provisions of this legislation.

Grants the Commissioner sole authority to determine quarantine guidelines for a person that tests positive for COVID-19 and for restriction of the operation of a private business for purposes of COVID-19. Establishes that a local health agency, local health entity, mayor, local governing body, public or private school does not have the authority to quarantine a person or private business for purposes of COVID-19.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact - The provisions of the bill could jeopardize federal American Rescue Plan funds. The amount and timing of the funds that will be jeopardized is unknown and cannot reasonably be determined.

SUMMARY OF AMENDMENT (010338): Deletes language from the original bill that establishes that during the existence of any pandemic, the Governor has exclusive jurisdiction to issue executive orders with respect to each county health department in the state. Deletes the provision that prohibits the Commissioner of the Department of Health (DOH) and local health departments or boards to supersede, contradict, or refuse to comply with such executive orders.

Deletes the provision deleting the authorization for county health officers to order rules and regulations as necessary to protect the general health and safety of the county. Instead authorizes

county health officers such powers except during a declared state of emergency for a COVID-19 pandemic.

Deletes and rewrites a provision of the original bill such that the substantive change is requiring the Commissioner to consider nominees submitted by a county mayor for a county health officer appointment, rather than the mayor concurring or not concurring with the Commissioner's proposed appointee in ten days.

Adds language stating that all regulations of county health departments and boards of health remain in full effect as long as they do not conflict with the Commissioner of Health's authority to determine quarantine guidelines.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The proposed legislation does not significantly impact the policies, procedures, or staffing needs of county health officers, county mayors, county boards of health, or local governing bodies.
- The Commissioner of the DOH can adhere to the provisions of the proposed legislation within existing resources.
- Tennessee received \$2,489,423,407 in education relief funding from the ESSER grant in the ARP Act of 2021 administered by the U.S. Department of Education (USDOE).
- The ARP program requires districts to submit "Safe Return to In-Person Instruction and Continuity of Services Plans" to the Department of Education for review and approval.
- LEAs must have procedures for collecting and providing information needed by local health departments.
- If the proposed legislation prohibits LEAs from maintaining the approved plans, the state and districts would be in violation of the requirements for the ARP ESSER grant.
- If the state is found to be in violation of the ARP Act, then USDOE may seek corrective action which may risk up to \$2,489,423,407 in federal relief funding for the state and LEAs.
- The exact amount of funding withheld would be at the discretion of USDOE.
- If the proposed legislation further prohibits a state or local entity or private business from following any federal mandate, additional federal funding could be jeopardized.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

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